IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

JOHN OAKLEAF[1],

Plaintiff,

v. No. 15-cv-0220 RB/SMV

RICARDO MARTINEZ,
in his individual and official capacities,

CHRIS PASCALE,[2]
in his individual and official capacities,

PATRICIA LALONDE,
in her individual capacity,

TALA IBRAHIM,
in her individual capacity,

LARRY MONKS,
in his individual capacity,

JENNIFER JAMES,
in her official capacity,

MANAGEMENT & TRAINING CORPORATION,
a corporation based in Centerville, Utah,

Defendants.

DEFENDANTS RICARDO MARTINEZ, CHRIS PASCALE, TALA IBRAHIM AND MANAGEMENT & TRAINING CORPORATION'S ANSWER TO SECOND AMENDED COMPLAINT [DOC. 77]

Defendants Ricardo Martinez, Chris Pascale, Tala Ibrahim, and Management & Training Corporation (hereinafter collectively referred to as "OCPF Defendants"), by and through their

[1] Plaintiff identifies as female and prefers the name Julie Marie Oakleaf. [Doc. 1]. Accordingly, Defendants will refer to Plaintiff as "she" or "her."

[2] Although Plaintiff has apparently identified Chris Pascale as a man by referring to her with male pronouns both in the caption and throughout the Second Amended Complaint, Ms. Pascale is a woman.

attorneys at Keleher & McLeod, P.A., and for their Answer to Second Amended Complaint filed by Plaintiff Julie Marie a/k/a John Oakleaf ("Plaintiff") state:

PRELIMINARY STATEMENT

1. As to the allegations of paragraph 1, OCPF Defendants admit only that the OCPF Defendants are individuals and a corporation. Defendants deny the remaining allegations of paragraph 1.

2. OCPF Defendants are without sufficient information or knowledge to form a belief as to the allegations of paragraph 2 and therefore deny the same.

3. OCPF Defendants are without sufficient information or knowledge to form a belief as to the allegations of paragraph 3 and therefore deny the same.

4. As to the allegations of paragraph 4, OCPF Defendants admit only that for a period of time Plaintiff was incarcerated at Otero County Prison Facility ("OCPF"). Any remaining allegations of paragraph 4 are denied.

5. OCPF Defendants are without sufficient information or knowledge to form a belief as to the allegations of paragraph 5 and therefore deny the same.

6. The allegations of paragraph 6 are denied.

7. The allegations of paragraph 7 are legal conclusions to which no response is required. To the extent a response is required, OCPF Defendants deny the allegations of paragraph 7.

8. The allegations of paragraph 8 are legal conclusions to which no response is required. To the extent a response is required, OCPF Defendants deny the allegations of paragraph 8.

JURISDICTION AND VENUE

9. As to the allegations of paragraph 9 the OCPF Defendants admit only that Plaintiff brought this Second Amended Complaint pursuant to 42 U.S.C. §§ 1983 and 1988. Any remaining allegations of paragraph 9 are denied.

10. As to the allegations of paragraph 10 the OCPF Defendants admit only that this Court may have subject matter jurisdiction over them conditioned upon Plaintiff's exhaustion of administrative remedies as required by the Prison Litigation Reform Act. 42 U.S.C. § 1997e(a). Any remaining allegations of paragraph 10 are denied.

11. As to the allegations of paragraph 11 the OCPF Defendants admit only that this Court may have personal jurisdiction over them conditioned upon Plaintiff's exhaustion of administrative remedies as required by the Prison Litigation Reform Act. 42 U.S.C. § 1997e(a). The OCPF Defendants are without sufficient knowledge or information to form a belief as to the remaining allegations of paragraph 11 and therefore denies the same.

12. As to the allegations of paragraph 12 the OCPF Defendants admit only that this Court may have personal jurisdiction over Management & Training Corporation conditioned upon Plaintiff's exhaustion of administrative remedies as required by the Prison Litigation Reform Act. 42 U.S.C. § 1997e(a). The OCPF Defendants are without sufficient information or knowledge as to any of the remaining allegations and therefore deny the same.

13. As to the allegations of paragraph 13 the OCPF Defendants admit only that venue may be proper. Any remaining allegations of paragraph 13 are denied.

PARTIES

14. As to the allegations of paragraph 14 the OCPF Defendants admit only that Plaintiff was incarcerated at OCPF when she filed this lawsuit. The OCPF Defendants are without

sufficient knowledge or information to form a belief as to the remaining allegations of paragraph 14 and therefore deny the same.

15. As to the allegations of paragraph 15 the OCPF Defendants admit only that Defendant Ricardo Martinez is the current warden at OCPF and was so during a portion of Plaintiff's incarceration at OCPF. Any remaining allegations of paragraph 15 are denied.

16. As to the allegations of paragraph 16 the OCPF Defendants admit only that Chris Pascale is employed at OCPF. Any remaining allegations of paragraph 16 are denied.

17. The allegations of paragraph 17 pertain to a party other than the OCPF Defendants and for which no response is required. To the extent a response is required, the OCPF Defendants admit only Defendant Patricia LaLonde was formerly employed at OCPF. Any remaining allegations of paragraph 17 are denied.

18. As to the allegations of paragraph 18 the OCPF Defendants admit only that Tala Ibrahim was employed at OCPF. Any remaining allegations of paragraph 18 are denied.

19. The allegations of paragraph 19 pertain to a party other than the OCPF Defendants and for which no response is required. To the extent a response is required, the OCPF Defendants admit only Defendant Larry Monks was formerly employed at OCPF. Any remaining allegations of paragraph 19 are denied.

20. The allegations of paragraph 20 pertain to a party other than the OCPF Defendants and for which no response is required. To the extent a response is required, the OCPF Defendants are without sufficient knowledge or information to form a belief as to the allegations of paragraph 20 and therefore deny the same.

21. As to the allegations of paragraph 21 the OCPF Defendants admit only that MTC runs the daily operations at OCPF and that it is based out of Centerville, Utah. Any remaining allegations of paragraph 21 are denied.

FACTUAL BACKGROUND

Background on Gender Dysphoria and Its Medical Treatment and Standards of Care

22. The allegations of paragraph 22 are legal conclusions to which no response is required. To the extent a response is required, the OCPF Defendants are without sufficient knowledge or information to form a belief as to the allegations of paragraph 22 and therefore deny the same.

23. The allegations of paragraph 23 are legal conclusions to which no response is required. To the extent a response is required, the OCPF Defendants are without sufficient knowledge or information to form a belief as to the allegations of paragraph 23 and therefore deny the same.

24. The allegations of paragraph 24 are legal conclusions to which no response is required. To the extent a response is required, the OCPF Defendants are without sufficient knowledge or information to form a belief as to the allegations of paragraph 24 and therefore deny the same.

25. The allegations of paragraph 25 are legal conclusions to which no response is required. To the extent a response is required, the OCPF Defendants are without sufficient knowledge or information to form a belief as to the allegations of paragraph 25 and therefore deny the same.

26. The allegations of paragraph 26 are legal conclusions to which no response is required. To the extent a response is required, the OCPF Defendants are without sufficient

knowledge or information to form a belief as to the allegations of paragraph 26 and therefore deny the same.

27. The allegations of paragraph 27 are legal conclusions to which no response is required. To the extent a response is required, the OCPF Defendants are without sufficient knowledge or information to form a belief as to the allegations of paragraph 27 and therefore deny the same.

28. The allegations of paragraph 28 are legal conclusions to which no response is required. To the extent a response is required, the OCPF Defendants are without sufficient knowledge or information to form a belief as to the allegations of paragraph 28 and therefore deny the same.

29. The allegations of paragraph 29 are legal conclusions to which no response is required. To the extent a response is required, the OCPF Defendants are without sufficient knowledge or information to form a belief as to the allegations of paragraph 29 and therefore deny the same.

30. The allegations of paragraph 30 are legal conclusions to which no response is required. To the extent a response is required, the OCPF Defendants are without sufficient knowledge or information to form a belief as to the allegations of paragraph 30 and therefore deny the same.

31. The allegations of paragraph 31 are legal conclusions to which no response is required. To the extent a response is required, the OCPF Defendants are without sufficient knowledge or information to form a belief as to the allegations of paragraph 31 and therefore deny the same.

32. The allegations of paragraph 32 are legal conclusions to which no response is required. To the extent a response is required, the OCPF Defendants are without sufficient knowledge or information to form a belief as to the allegations of paragraph 32 and therefore deny the same.

33. The allegations of paragraph 33 are legal conclusions to which no response is required. To the extent a response is required, the OCPF Defendants are without sufficient knowledge or information to form a belief as to the allegations of paragraph 33 and therefore deny the same.

34. The allegations of paragraph 34 are legal conclusions to which no response is required. To the extent a response is required, the OCPF Defendants are without sufficient knowledge or information to form a belief as to the allegations of paragraph 34 and therefore deny the same.

35. The allegations of paragraph 35 are legal conclusions to which no response is required. To the extent a response is required, the OCPF Defendants are without sufficient knowledge or information to form a belief as to the allegations of paragraph 35 and therefore deny the same.

36. The allegations of paragraph 36 are legal conclusions to which no response is required. To the extent a response is required, the OCPF Defendants are without sufficient knowledge or information to form a belief as to the allegations of paragraph 36 and therefore deny the same.

37. The allegations of paragraph 37 are legal conclusions to which no response is required. To the extent a response is required, the OCPF Defendants are without sufficient

knowledge or information to form a belief as to the allegations of paragraph 37 and therefore deny the same.

38. The allegations of paragraph 38 are legal conclusions to which no response is required. To the extent a response is required, the OCPF Defendants are without sufficient knowledge or information to form a belief as to the allegations of paragraph 38 and therefore deny the same.

39. The allegations of paragraph 39 are legal conclusions to which no response is required. To the extent a response is required, the OCPF Defendants are without sufficient knowledge or information to form a belief as to the allegations of paragraph 39 and therefore deny the same.

Ms. Oakleaf's Gender Dysphoria

40. As to the allegations of paragraph 40 the OCPF Defendants are without sufficient knowledge or information to form a belief and therefore deny the same.

41. As to the allegations of paragraph 41 the OCPF Defendants are without sufficient knowledge or information to form a belief and therefore deny the same.

42. As to the allegations of paragraph 42 the OCPF Defendants are without sufficient knowledge or information to form a belief and therefore deny the same.

43. As to the allegation so paragraph 43 the OCPF Defendants admit only that it appears that Plaintiff legally changed her name while incarcerated but that they are without sufficient knowledge or information to form a belief as to the remaining allegations and therefore deny the same.

44. As to the allegations of paragraph 44 the OCPF Defendants are without sufficient knowledge or information to form a belief and therefore deny the same.

45. As to the allegations of paragraph 45 the OCPF Defendants are without sufficient knowledge or information to form a belief and therefore deny the same.

Ms. Oakleaf's Incarceration and Denial of Medically Necessary Care

46. As to the allegations of paragraph 46 the OCPF Defendants are without sufficient knowledge or information to form a belief and therefore deny the same.

47. As to the allegations of paragraph 47 the OCPF Defendants are without sufficient knowledge or information to form a belief and therefore deny the same.

48. As to the allegations of paragraph 48 the OCPF Defendants are without sufficient knowledge or information to form a belief and therefore deny the same.

49. As to the allegations of paragraph 49 the OCPF Defendants are without sufficient knowledge or information to form a belief and therefore deny the same.

50. The allegations of paragraph 50 are admitted.

51. The allegations of paragraph 51 are denied.

52. As to the allegations of paragraph 52 the OCPF Defendants admit only that Plaintiff submitted a grievance on that date which alleged medical and mental health refused to properly diagnose her with gender dysphoria. Any remaining allegations of paragraph 52 are denied.

53. As to the allegations of paragraph 53 the OCPF Defendants admit only that a memo from Chris Pascale was sent to a grievance officer containing the language of paragraph 53. Any remaining allegations of paragraph 53 are denied.

54. The allegations of paragraph 54 are legal conclusions to which no response is required. To the extent a response is required, the OCPF Defendants are without sufficient knowledge or information to form a belief as to the allegations of paragraph 54 and therefore deny the same.

55. The allegations of paragraph 55 are admitted.

56. The allegations of paragraph 56 are admitted.

57. As to the allegations of paragraph 57 the OCPF Defendants are without sufficient knowledge or information to form a belief and therefore deny the same.

58. As to the allegations of paragraph 58 the OCPF Defendants admit only that an I-60 informal grievance was made. The remaining allegations of paragraph 58 are denied.

59. The allegations of paragraph 59 are denied.

60. The allegations of paragraph 60 are denied.

61. As to the allegations of paragraph 61 the OCPF Defendants admit only that Plaintiff received psychiatric treatment while incarcerated at OCPF. Any remaining allegations of paragraph 61 are denied.

62. The allegations of paragraph 62 are legal conclusions to which no response is required. To the extent a response is required, the OCPF Defendants are without sufficient knowledge or information to form a belief as to the allegations of paragraph 62 and therefore deny the same.

63. The allegations of paragraph 63 are denied.

64. As to the allegations of paragraph 64 the OCPF Defendants are without sufficient knowledge or information to form a belief and therefore deny the same.

65. As to the allegations of paragraph 65 the OCPF Defendants are without sufficient knowledge or information to form a belief and therefore deny the same.

66. As to the allegations of paragraph 66 the OCPF Defendants admit that Plaintiff filed an I-60 informal grievance wherein she informed personnel that she was considering self-castration. Any remaining allegations of paragraph 66 are denied.

67. The allegations of paragraph 67 are admitted.

68. As to the allegations of paragraph 68 the OCPF Defendants are without sufficient knowledge or information to form a belief and therefore deny the same.

69. The allegations of paragraph 69 are legal conclusions to which no response is required. To the extent a response is required, the OCPF Defendants are without sufficient knowledge or information to form a belief as to the allegations of paragraph 69 and therefore deny the same.

Failure to Enact a Policy or Adequately Train and Supervise Staff to Ensure the Health of Transgender Inmates Incarcerated in New Mexico Prisons

70. As to the allegations of paragraph 70 the OCPF Defendants admit only that OCPF staff are trained to meet the medical needs of all inmates. Any remaining allegations of paragraph 70 are denied.

71. As to the allegations of paragraph 71 the OCPF Defendants admit only that OCPF staff are trained to meet the medical and mental health needs of all inmates. Any remaining allegations of paragraph 71 are denied.

72. The allegations of paragraph 72 are denied.

COUNT I

Denial of Medically Necessary Care in Violation of the Eighth Amendment to the United States Constitution

(Against All Defendants)

73. The OCPF Defendants incorporate the responses to paragraphs 1 through 72 as if set forth herein.

74. As to the allegations of paragraph 74 the OCPF Defendants are without sufficient knowledge or information to form a belief and therefore deny the same.

75. The allegations of paragraph 75 are legal conclusions to which no response is required. To the extent a response is required, the OCPF Defendants are without sufficient

knowledge or information to form a belief as to the allegations of paragraph 75 and therefore deny the same.

76. The allegations of paragraph 76 are denied.

77. The allegations of paragraph 77 are denied.

78. The allegations of paragraph 78 are denied.

79. The allegations of paragraph 79 are legal conclusions to which no response is required. To the extent a response is required, the OCPF Defendants are without sufficient knowledge or information to form a belief as to the allegations of paragraph 79 and therefore deny the same.

80. The allegations of paragraph 80 pertain to another Defendant and to which no response is required from OCPF Defendants. To the extent a response is required, the OCPF Defendants are without sufficient knowledge or information to form a belief and therefore deny the same.

81. The allegations of paragraph 81 are denied.

82. The allegations of paragraph 82 are denied.

83. Although the allegations of paragraph 83 are raised against all Defendants, the allegations appear to pertain to person(s) other than Plaintiff and therefore Plaintiff does not have standing to assert the claims and no response is required. To the extent a response is required, the allegations of paragraph 83 are denied.

84. As to the allegations of paragraph 84 the OCPF Defendants are without sufficient knowledge or information to form a belief and therefore deny the same.

85. As to the allegations of paragraph 85 the OCPF Defendants are without sufficient knowledge or information to form a belief and therefore deny the same.

COUNT II

Failure to Enact a Policy or Custom Regarding the Treatment of Gender Dysphoria in Violation of the Eighth Amendment to the United States Constitution
(Against Defendants Martinez, Pascale, James, and MTC)

86. The OCPF Defendants incorporate the responses to paragraphs 1 through 85 as if set forth herein.

87. Although the allegations of paragraph 87 are raised against a number of Defendants, including certain OCPF Defendants, the allegations appear to pertain to person(s) other than Plaintiff and therefore Plaintiff does not have standing to assert the claims and no response is required. To the extent a response is required, the allegations of paragraph 87 are denied.

88. The allegations of paragraph 88 are denied.

89. The allegations of paragraph 89 pertain to another Defendant and to which no response is required from the OCPF Defendants. To the extent a response is required, the OCPF Defendants are without sufficient knowledge or information to form a belief and therefore deny the same.

90. The allegations of paragraph 90 are denied.

91. The allegations of paragraph 91 are denied.

92. Although the allegations of paragraph 92 are raised against a number of Defendants, including certain OCPF Defendants, the allegations appear to pertain to Plaintiff as well as person(s) other than Plaintiff for which Plaintiff does not have standing to assert the claims. To the extent the allegations of paragraph 92 only pertain to Plaintiff, those allegations are denied.

93. The allegations of paragraph 93 are denied.

COUNT III

Failure to Train and Supervise Staff Regarding Serious Medical Needs in Violation of the Eighth Amendment to the United States Constitution
(Against Defendants Martinez, Pascale, MTC, and James)

94. The OCPF Defendants incorporate the responses to paragraphs 1 through 93 as if set forth herein.

95. The allegations of paragraph 95 are denied.

96. The allegations of paragraph 96 pertain to another Defendant and to which no response is required from the OCPF Defendants. To the extent a response is required, the OCPF Defendants are without sufficient knowledge or information to form a belief and therefore deny the same.

97. Although the allegations of paragraph 97 are raised against a number of Defendants, including certain OCPF Defendants, the allegations appear to pertain to person(s) other than Plaintiff and for which Plaintiff lacks standing to assert the claims and no response is required. To the extent a response is required from the OCPF Defendants, the allegations of paragraph 97 are denied.

98. The allegations of paragraph 98 are denied.

99. The allegations of paragraph 99 are denied.

100. The allegations of paragraph 100 are denied.

PRAYER FOR RELIEF

101. The OCPF Defendants acknowledge Plaintiff's Prayer for Relief but deny Plaintiff's entitlement to the same.

AFFIRMATIVE DEFENSES

1. The Second Amended Complaint fails to state a claim against OCPF Defendants upon which relief can be granted and, therefore, should be dismissed with prejudice.

2. The OCPF Defendants acted in good faith, acted consistent with sound principles for the confinement of individuals to maintain the safety of Plaintiff and others in a complex and

potentially dangerous prison population, and acted upon direction of non-parties to this action; accordingly, the claims against OCPF Defendants should be dismissed.

3. The allegations of the Second Amended Complaint do not rise to the level required to state a claim for cruel and unusual punishment in violation of the Eighth Amendment of the United States of America; accordingly, the claims against OCPF Defendants should be dismissed.

4. The Second Amended Complaint should be barred in whole or in part by the Prison Litigation Reform Act. 42 U.S.C. § 1997e(a).

5. Plaintiff failed to exhaust her administrative remedies as required by the Prison Litigation Reform Act.

6. Plaintiff's claimed injuries, if any, are barred by the doctrine of comparative fault.

7. Plaintiff lacks standing to pursue claims on behalf of unidentified "transgender inmates".

8. Discovery has just begun in this action and OCPF Defendants reserve their right to amend this Answer or to plead any additional affirmative defenses if warranted.

WHEREFORE, having fully answered the Second Amended Complaint, OCPF Defendants request this Court dismiss the Second Amended Complaint with prejudice and any other relief the Court deems just and proper.

Respectfully submitted,

KELEHER & MCLEOD, P.A.

By: */s/ Christina Muscarella Gooch*

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I HEREBY CERTIFY that on March 23, 2017, I filed the foregoing pleading electronically through the CM/ECF System, which caused counsel of record to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

/s/ Christina Muscarella Gooch
Christina Muscarella Gooch

4827-9632-5445, v. 1